

Amendments to Section 304 - Emergency Notification

Section 2018(a) of AWIA amends EPCRA section 304 (Emergency Notification) to add a new sub-section, "Addressing Source Water used for Drinking Water" (EPCRA section 304(e)). This new sub-section requires State Emergency Response Commissions (SERCs) or Tribal Emergency Response Commissions (TERCs) to notify the "applicable state agency" (i.e., the state drinking water primacy agency) of any release requiring notice under existing provisions of EPCRA section 304. The state drinking water primacy agency is required to forward this notification to all community water systems whose source water is affected by the release. For states, tribes, and territories without primacy for drinking water regulations (e.g., Wyoming, Washington D.C.), the SERC (or TERC) is required to directly notify the affected community water systems.

While the SERC or TERC is responsible for notifying the state drinking water primacy agency of all releases reported under section 304 of EPCRA, community water systems are required to be notified only about those releases that may impact its source water (this includes surface water, ground water, or any other water type that serves as a source of drinking water). In states that have primacy for drinking water regulations, the state drinking water primacy agency is responsible for determining which, if any, community water systems to notify about a release. This determination will need to consider the specific details of the release (i.e., where, when, what, and how much material was released). GIS-based tools, such as Drinking Water Mapping Applications to Protect Source Waters (DWMAPS)¹, may be helpful in making this determination. EPA encourages state drinking water primacy agencies and community water systems to provide their SERC (or TERC) with information about source water protection areas and the location of drinking water intakes and wells.

EPA is aware that each state has developed its own system to process release notifications; for instance, some states use a centralized reporting system and others use 911. However, with the addition of the requirement under A WIA to notify the state drinking water primacy agency of any release requiring notification under EPCRA section 304, it is critical that SERCs and TERCs reevaluate their current reporting structures. SERCs and TERCs should work with state drinking water primacy agencies to ensure that there is a robust process for notifying community water systems about a release that may affect their source water. EPA recommends that SERCs, TERCs, LEPCs, and 911 systems engage with community water systems to ensure prompt notification of relevant releases.

Additionally, the AWIA amendments to EPCRA Section 304 require that the follow-up written report be provided to the state drinking water primacy agency who, in turn, will provide it to the affected community water systems (EPCRA section 304(e) (I) (C)). For states with no drinking water primacy, the SERC (or TERC) must provide the follow-up written report directly to the affected community water systems.

EPCRA section 304(b)(I) permits owners and operators of transportation facilities to call the 911 emergency number or, in the absence of a 911 number, the operator, in lieu of calling the SERC and Local Emergency Planning Committee (LEPC) (EPCRA section 304(b)(I)).² Although Section 2018 of A WIA does not specify how transportation related releases should be forwarded to state drinking water

agencies or community water systems, SERCs and TERCs should establish procedures for the 911 operator or any other system that receives release notification to directly notify the community water systems to ensure A WIA requirements are met. If such a process is established, it would meet SERCs' and TERCs' responsibility required by A WIA's amendments to EPCRA section 304.

¹ <https://www.epa.gov/sourcewaterprotection/drinking-water-mapping-application-protect-source-waters-dwmaps>

² Facilities are not required to submit follow-up written report for transportation related releases.